

EXHIBIT 116

PUBLIC

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H I G H L Y C O N F I D E N T I A L

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

-----x

UNITED STATES, et al.,

Plaintiffs,

vs.

Case No.

1:23-cv-000108

GOOGLE LLC,

Defendant.

-----x

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VIDEOTAPED DEPOSITION OF BENNEASER JOHN

New York, New York

Friday, September 8, 2023

9:17 a.m.

Reported by:

Jennifer Ocampo-Guzman, CRR, CLR

JOB NO. 6082515

Veritext Legal Solutions

800-567-8658

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<p style="text-align: right;">Page 2</p> <p>1 2 3 4 5 6 7 8 9 September 8, 2023 10 9:17 a.m. 11 12 13 HIGHLY CONFIDENTIAL 14 Videotaped Deposition of 15 BENNEASER JOHN, held at the offices of 16 Paul, Weiss, Rifkind, Wharton & 17 Garrison LLP, 1285 Avenue of the 18 Americas, New York, New York, pursuant 19 to subpoena, before Jennifer 20 Ocampo-Guzman, a Certified Realtime 21 Shorthand Reporter and Notary Public of 22 the State of New York. 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 2 APPEARANCES (Continued): 3 4 ORRICK HERRINGTON & SUTCLIFFE LLP 5 Attorneys for nonparty Microsoft and the 6 Deponent 7 1152 15th Street, N.W. 8 Washington, D.C. 20005-1706 9 BY: EILEEN COLE, ESQ. 10 ALLEN DAVIS, ESQ., (via Zoom) 11 12 ALSO PRESENT: 13 CARLOS RIVERA, Videographer 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 2 APPEARANCES: 3 4 UNITED STATES DEPARTMENT OF JUSTICE 5 Attorneys for Plaintiff United States 6 325 7th Street, Suite 300 7 Washington, DC 20004 8 BY: JEFFREY VERNON, ESQ. 9 KAITLYN BARRY, ESQ. 10 JEFF QUI, ESQ., (via Zoom) 11 12 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP 13 Attorneys for Defendant Google LLC 14 1285 Avenue of the Americas 15 New York, New York 10019 16 BY: KAREN DUNN, ESQ. 17 ERICA SPEVACK, ESQ. 18 WILLIAM ISAACSON, ESQ. (p.m. session) 19 JULIA WOOD, ESQ., (via Zoom) 20 21 AXINN, VELTROP & HARKRIDER LLP 22 Attorneys for Defendant Google LLC 23 55 Second Street 24 San Francisco, California 94105 25 BY: ISABELLA SOLORZANO, ESQ.</p>	<p style="text-align: right;">Page 5</p> <p>1 HIGHLY CONFIDENTIAL 2 THE VIDEOGRAPHER: Good morning. 3 We are going on the record at 9:17 a.m. 4 on September 8, 2023. Please note that 5 the microphones are sensitive and may 6 pick up whispering and minor 7 conversations; and please mute your 8 phones at this time. Audio and video 9 recording will continue to take place 10 unless all parties agree to go off the 11 record. 12 This is media unit number 1 of the 13 video-recorded deposition of Benneaser 14 John taken by counsel for defendant, in 15 the matter of the United States of 16 America versus Google LLC, filed in the 17 United States District Court, for the 18 Eastern District of Virginia, case 19 number 1:23-cv-000108-LMB-JFA. The 20 location of this deposition is 1285 21 Avenue of the Americas, New York, New 22 York. My name is Carlos Rivera 23 representing Veritext and I'm the 24 videographer. The court reporter is 25 Jennifer Ocampo-Guzman also representing</p>

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<p style="text-align: right;">Page 278</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 Q. Were you speaking to government</p> <p>3 lawyers?</p> <p>4 A. That is correct.</p> <p>5 MR. VERNON: Objection, scope.</p> <p>6 Q. So you and government lawyers</p> <p>7 spoke?</p> <p>8 A. That's correct.</p> <p>9 MR. VERNON: Objection, scope.</p> <p>10 Q. Was it a virtual conversation?</p> <p>11 MR. VERNON: Objection to scope.</p> <p>12 A. That's correct.</p> <p>13 Q. So you -- I would call that a</p> <p>14 meeting.</p> <p>15 A. Okay.</p> <p>16 Q. But so you met with the government</p> <p>17 lawyers, that was on August 9th of 2023?</p> <p>18 MR. VERNON: Objection, scope.</p> <p>19 Q. And your testimony now is that you</p> <p>20 can't remember whether you learned you would</p> <p>21 be the deponent on behalf of Microsoft before</p> <p>22 or after that meeting; is that accurate?</p> <p>23 A. Let me clarify. I knew there was a</p> <p>24 possibility that I would be deposed, but the</p> <p>25 confirmation of the deposition was after the</p>	<p style="text-align: right;">Page 280</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 the government on August 9th. Is that</p> <p>3 accurate?</p> <p>4 MR. VERNON: Objection, scope.</p> <p>5 A. Yes, that is correct.</p> <p>6 Q. And I think we can agree that those</p> <p>7 are topics that you were asked about, most of</p> <p>8 them by the government lawyer today, correct?</p> <p>9 A. Some of them, yes.</p> <p>10 Q. And those were topics that you had</p> <p>11 previously discussed with the government,</p> <p>12 correct?</p> <p>13 A. Some of them --</p> <p>14 MR. VERNON: Objection, scope.</p> <p>15 Q. When you say "Some of them," which</p> <p>16 of the topics here that you recall discussing</p> <p>17 with the government lawyer on August 9, 2023,</p> <p>18 after you knew that there was a possibility</p> <p>19 you would be deposed?</p> <p>20 A. Publisher ad server and the</p> <p>21 monetized SSP and other SSPs, AdX</p> <p>22 competition, AdX.</p> <p>23 MR. VERNON: Sorry. Objection,</p> <p>24 scope.</p> <p>25 Q. All right. I would like to hand</p>
<p style="text-align: right;">Page 279</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 interview.</p> <p>3 Q. Understood.</p> <p>4 Your cheat sheet offers the topics</p> <p>5 that you discussed with the government in</p> <p>6 between being notified that there was a</p> <p>7 possibility of a deposition and afterwards</p> <p>8 when you were confirmed to be the deponent.</p> <p>9 The topics are as follows:</p> <p>10 Competition between Invest DSP and</p> <p>11 Google's DSP.</p> <p>12 Publisher's ad server options,</p> <p>13 including self-supply and Monetize ad servers</p> <p>14 competition with Google's ad server.</p> <p>15 Competition between Monetize SSP</p> <p>16 and other SSPs/ad exchanges, including AdX.</p> <p>17 Invest DSP's take rates.</p> <p>18 Impact of header bidding on Invest</p> <p>19 DSP.</p> <p>20 Microsoft Audience Networks'</p> <p>21 competition among ad networks.</p> <p>22 And importance of scale to ad</p> <p>23 exchanges.</p> <p>24 Those are the topics that your</p> <p>25 cheat sheet reflects that you discussed with</p>	<p style="text-align: right;">Page 281</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 you what we will mark as Exhibit 17.</p> <p>3 MS. SPEVACK: Exhibit 17.</p> <p>4 (MSFT Exhibit 17, Document</p> <p>5 entitled, "Xandr in Microsoft, Product</p> <p>6 Synergies Sneak Peak," Bates Nos.</p> <p>7 MSFT-LIT-0000003426 through</p> <p>8 MSFT-LIT-0000003429, marked for</p> <p>9 identification, this date.)</p> <p>10 Q. Now, Mr. John, you recognize this</p> <p>11 as a Xandr business record prepared on, dated</p> <p>12 November 2022, in the ordinary course of</p> <p>13 business?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Okay. Now earlier when government</p> <p>16 counsel asked you about when Xandr competed</p> <p>17 with Google and asked you why Xandr did not</p> <p>18 tend to win that competition, the first</p> <p>19 reason you said was that Xandr didn't have</p> <p>20 first-party properties.</p> <p>21 Do you recall saying that?</p> <p>22 MR. VERNON: Objection,</p> <p>23 mischaracterizes.</p> <p>24 A. The question was about specific to</p> <p>25 the publisher ad server on display, and my</p>

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<p style="text-align: right;">Page 282</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 answer was about demand.</p> <p>3 Q. Right. But before you spoke about</p> <p>4 demand and we will get to demand, you said</p> <p>5 Xandr didn't have first-party properties. Do</p> <p>6 you remember saying that?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. Is it the case that</p> <p>9 Microsoft has first-party properties?</p> <p>10 A. That is correct.</p> <p>11 Q. And Microsoft has now acquired</p> <p>12 Xandr, right?</p> <p>13 A. That is correct.</p> <p>14 Q. Now, you did also mentioned</p> <p>15 availability of demand, and I would ask you</p> <p>16 just to look at the document in front of you</p> <p>17 dated November 2022.</p> <p>18 A. Uh-huh, yes.</p> <p>19 Q. And if you looked at the left-hand</p> <p>20 side of the page, this is a Xandr document,</p> <p>21 after the acquisition by Microsoft and it</p> <p>22 refers to "Unique Demand." Do you see that?</p> <p>23 A. That is correct.</p> <p>24 Q. And if you look at "Unique Demand"</p> <p>25 then there are four categories and the four</p>	<p style="text-align: right;">Page 284</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 SSPs wide array of publisher inventory,</p> <p>3 right?</p> <p>4 A. I do not.</p> <p>5 Q. And you don't dispute that when the</p> <p>6 document says, Microsoft Audience Network</p> <p>7 demand originated from Bing search and</p> <p>8 Microsoft audience -- Microsoft Audience</p> <p>9 Network audience buys, that it's describing</p> <p>10 this as unique demand to which Xandr's</p> <p>11 publishers will have access following the</p> <p>12 Microsoft/Xandr acquisition?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay. So you're bringing the</p> <p>15 demand that Microsoft has access to as a</p> <p>16 result of its search advertising to Xandr's</p> <p>17 publishers through Xandr Monetize, correct?</p> <p>18 A. Xandr publishers are one of the</p> <p>19 publishers. MSAN is and will continue to</p> <p>20 provide the demand to outside of Monetize as</p> <p>21 well.</p> <p>22 Q. Right. And while we're on the</p> <p>23 topic of demand, you spoke earlier about how</p> <p>24 sophisticated publishers on the supply side</p> <p>25 are partnering with Xandr and so you</p>
<p style="text-align: right;">Page 283</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 categories are projects that Microsoft and</p> <p>3 Xandr are working on. Do you see that?</p> <p>4 A. That is correct.</p> <p>5 Q. And the first project is called</p> <p>6 Microsoft Audience Network bidder</p> <p>7 integration. Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And in the "Primary Audience and</p> <p>10 Benefit" column, listing the primary audience</p> <p>11 and benefits of the Microsoft Audience</p> <p>12 Network bidder integration, it says, Monetize</p> <p>13 SSP sellers will now get access to Microsoft</p> <p>14 Audience Network demand originating from Bing</p> <p>15 Search and Microsoft Audience Network</p> <p>16 audience buys. Do you see that?</p> <p>17 A. Yes, I do.</p> <p>18 Q. All right. And then it says,</p> <p>19 Microsoft Audience Network "buyers will be</p> <p>20 able to access Monetize SSP's wide array of</p> <p>21 publisher inventory."</p> <p>22 Do you see that?</p> <p>23 A. Yes, I do.</p> <p>24 Q. And you don't dispute that this</p> <p>25 Microsoft Xandr document refers to Monetize</p>	<p style="text-align: right;">Page 285</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 mentioned Axel Springer, right?</p> <p>3 A. That is correct.</p> <p>4 Q. News Corp is one, right?</p> <p>5 A. News Corp is not an Axel customer.</p> <p>6 They're an SSP, but they're primarily Google</p> <p>7 customer.</p> <p>8 Q. Right, but they're a publisher that</p> <p>9 works with Xandr?</p> <p>10 A. As an SSP.</p> <p>11 Q. As an SSP, Hulu?</p> <p>12 A. Hulu did not work with us.</p> <p>13 Q. How about CNN?</p> <p>14 A. CNN as an SSP, not as an ad server</p> <p>15 customer.</p> <p>16 Q. How about Warner Media?</p> <p>17 A. Warner Media did not use as an ad</p> <p>18 server customer.</p> <p>19 Q. SSP?</p> <p>20 A. SSP, that's correct.</p> <p>21 Q. And Netflix, we've already talked</p> <p>22 about Netflix?</p> <p>23 A. Correct.</p> <p>24 Q. Now, if you look down on the</p> <p>25 left-hand side of the page, also in the</p>

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<p style="text-align: right;">Page 286</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 category of "Unique Demand" the fourth</p> <p>3 project it refers to, it is "Microsoft</p> <p>4 audience" -- sorry --</p> <p>5 MS. DUNN: Strike that.</p> <p>6 Q. If you look at the next page, there</p> <p>7 is on the left-hand side of the page it says,</p> <p>8 "Unique Data." Do you see that?</p> <p>9 A. That's right.</p> <p>10 Q. And the projects under "Unique</p> <p>11 Data," there are four of them. You see that?</p> <p>12 A. Yes, I do.</p> <p>13 Q. And the fourth project is "Sharing</p> <p>14 device graphs," and the "Brief Description"</p> <p>15 says, "Unifying Microsoft's user graph and</p> <p>16 the Xandr Graph to increase graph scale." Do</p> <p>17 you see that?</p> <p>18 A. Yes, I do.</p> <p>19 Q. So my question to you, sir, is:</p> <p>20 Microsoft's user graph created using the</p> <p>21 first-party data available to it?</p> <p>22 A. That is correct, based on the</p> <p>23 consented signal data from the users, yes.</p> <p>24 Q. And is the Xandr Graph created</p> <p>25 using third-party data available to it?</p>	<p style="text-align: right;">Page 288</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 that?</p> <p>3 MR. VERNON: About Outlook?</p> <p>4 Objection to form mischaracterizes and</p> <p>5 beyond the scope.</p> <p>6 MS. DUNN: I'll rephrase.</p> <p>7 Q. Do you recall being asked some</p> <p>8 questions by government counsel about</p> <p>9 Microsoft's view of the world in 2007?</p> <p>10 A. Today?</p> <p>11 Q. No, he asked you questions about</p> <p>12 2007, when he was talking about --</p> <p>13 A. That's correct, during the talk,</p> <p>14 yeah.</p> <p>15 Q. This is the Microsoft website</p> <p>16 today, as it appears today, and this is the</p> <p>17 web page that talks about Xandr and premium</p> <p>18 programmatic advertising. Do you see that in</p> <p>19 front of you? If you look at the URL at the</p> <p>20 top it says --</p> <p>21 A. The URL, correct.</p> <p>22 Q. -- "Xandr programmatic premium</p> <p>23 advertising"?</p> <p>24 A. That's correct.</p> <p>25 Q. And Microsoft, this is on</p>
<p style="text-align: right;">Page 287</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 A. Again, based on the consented</p> <p>3 signals with the white listed publishers,</p> <p>4 yes.</p> <p>5 Q. Right.</p> <p>6 A. And also the Xandr graph has the</p> <p>7 licensed data from third-party sources.</p> <p>8 Q. Right.</p> <p>9 So what this document is saying is</p> <p>10 that Microsoft is working on a project to</p> <p>11 unify Microsoft's first-party data and</p> <p>12 Xandr's third-party data that is available to</p> <p>13 both, right?</p> <p>14 A. To join the data to scale the</p> <p>15 audience, correct.</p> <p>16 Q. Correct.</p> <p>17 I would like you to look now at</p> <p>18 what we will mark as Exhibit 18.</p> <p>19 (MSFT Exhibit 18, Document</p> <p>20 entitled, "Reach audiences across</p> <p>21 screens with premium advertising,"</p> <p>22 marked for identification, this date.)</p> <p>23 Q. Now, you were asked by the</p> <p>24 government counsel numerous questions about</p> <p>25 Microsoft's Outlook in 2007. Do you recall</p>	<p style="text-align: right;">Page 289</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 Microsoft's website and it's telling</p> <p>3 advertisers and publishers that they can help</p> <p>4 solve your buyers and sellers greatest</p> <p>5 advertising challenges with Xandr's platforms</p> <p>6 that enable you to unlock the full value of</p> <p>7 running programmatic advertising campaigns</p> <p>8 across screens and tapping into engaged</p> <p>9 audiences. And so you don't disagree that</p> <p>10 this is what Microsoft is telling people</p> <p>11 today, do you?</p> <p>12 A. I don't disagree.</p> <p>13 Q. And if you look down, it refers to</p> <p>14 the Xandr's end-to-end platforms?</p> <p>15 A. That is correct.</p> <p>16 Q. And would you do agree that having</p> <p>17 an end-to-end platform helps prevent fraud?</p> <p>18 MR. VERNON: Objection, leading,</p> <p>19 also scope.</p> <p>20 A. Yes.</p> <p>21 Q. If you look at page 2 of the</p> <p>22 printout from Microsoft's website, it says</p> <p>23 that premium advertising is available for a</p> <p>24 variety of formats through Microsoft. Do you</p> <p>25 see that?</p>

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<p style="text-align: right;">Page 290</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 A. Yes, that is correct.</p> <p>3 Q. And it lists "connected TV, display</p> <p>4 and native." Do you see that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. And it doesn't say those are, you</p> <p>7 know, aimed at different people, it just</p> <p>8 talks about all three of those there, right?</p> <p>9 MR. VERNON: Objection, vague.</p> <p>10 A. Can you clarify? What do you mean</p> <p>11 by that?</p> <p>12 Q. Microsoft is telling people through</p> <p>13 its website that you can reach your desired</p> <p>14 audience with one of the world's largest</p> <p>15 marketplaces; it's talking about Xandr,</p> <p>16 right?</p> <p>17 A. Yes, that is correct.</p> <p>18 Q. And it specifically mentions that</p> <p>19 that goes from connected TV to display to</p> <p>20 native. You see that?</p> <p>21 A. Right. You can reach the audience</p> <p>22 through one of those marketplaces, correct.</p> <p>23 Q. Right.</p> <p>24 And it specifically advertises, if</p> <p>25 you look down, there is a picture of the TV</p>	<p style="text-align: right;">Page 292</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 says "across digital formats," what formats</p> <p>3 it's talking about?</p> <p>4 A. It's display, audio, video, CTV.</p> <p>5 Q. All right. I would like to show</p> <p>6 you, sir, our Tab 53.</p> <p>7 (MSFT Exhibit 19, Document</p> <p>8 entitled, "Xandr in Microsoft Product</p> <p>9 Synergy Slides - Phase 2 - For buyers -</p> <p>10 Talk Track," Bates Nos.</p> <p>11 MSFT-LIT-0000004160 through</p> <p>12 MSFT-LIT-0000004163, marked for</p> <p>13 identification, this date.)</p> <p>14 MS. SPEVACK: Exhibits 19.</p> <p>15 MS. DUNN: Exhibit 19.</p> <p>16 Q. This is a document --</p> <p>17 MR. VERNON: Can you wait until we</p> <p>18 get copies?</p> <p>19 MS. COLE: And the first page?</p> <p>20 Metadata?</p> <p>21 MS. DUNN: Yes, the first page is</p> <p>22 metadata. This is a document produced</p> <p>23 by Microsoft to Google and the date is</p> <p>24 November 9, 2022, on this document. It</p> <p>25 follows the Microsoft/Xandr acquisition</p>
<p style="text-align: right;">Page 291</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 show "Stranger Things," and you can see in</p> <p>3 the top left-hand corner that that's being</p> <p>4 shown on Netflix. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And today Microsoft is touting, you</p> <p>7 can see on page 3, its exclusive technology</p> <p>8 and sales partnership with Netflix. Do you</p> <p>9 see that?</p> <p>10 A. Yes, I do.</p> <p>11 Q. It says, "all CTV advertising</p> <p>12 served on Netflix is exclusively available</p> <p>13 through the Microsoft advertising platform."</p> <p>14 Do you see that?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And then if you go to the part at</p> <p>17 the bottom of the "Advertiser Platform,"</p> <p>18 today what Microsoft is telling people who</p> <p>19 may be interested in its products that it has</p> <p>20 a robust data marketplace with access to</p> <p>21 premium supply across digital formats and</p> <p>22 flexible ways to transact.</p> <p>23 Do you see that?</p> <p>24 A. Yes, I do.</p> <p>25 Q. And do you happen to know when it</p>	<p style="text-align: right;">Page 293</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 and it is a talk track for buyers meant</p> <p>3 to accompany slides.</p> <p>4 Q. Do you have any reason to doubt</p> <p>5 that this talk track for buyers was prepared</p> <p>6 in the ordinary course of business by</p> <p>7 Microsoft employees?</p> <p>8 A. I don't know.</p> <p>9 Q. All right. One of the things that</p> <p>10 you talked about in your testimony with the</p> <p>11 government attorney was demand, and so when</p> <p>12 we're talking about demand, just to be clear,</p> <p>13 you mean advertisers are the demand side,</p> <p>14 right?</p> <p>15 A. That is correct.</p> <p>16 Q. And the point of the advertisers in</p> <p>17 the demand is so that people can be reached</p> <p>18 and see the ads, right?</p> <p>19 MR. VERNON: Objection, leading.</p> <p>20 A. That is one unique talk point,</p> <p>21 audience reach, yes.</p> <p>22 Q. Right.</p> <p>23 And if you look at what it says in</p> <p>24 the buyer talk track under slide 4, it talks</p> <p>25 about the "Microsoft Advertising</p>

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<p style="text-align: right;">Page 294</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 Marketplaces." Do you see that?</p> <p>3 A. Yes, uh-huh, yes.</p> <p>4 MR. VERNON: Show us where you are.</p> <p>5 MS. DUNN: I'm on --</p> <p>6 MR. VERNON: Never mind. I'm good.</p> <p>7 Q. And it describes Microsoft</p> <p>8 advertising ecosystem as expansive. Do you</p> <p>9 see that?</p> <p>10 A. Which paragraph? The second one?</p> <p>11 Q. It's on slide 4, "Microsoft</p> <p>12 Advertising Marketplaces" and it says,</p> <p>13 "Microsoft advertising's expansive</p> <p>14 ecosystem." Do you see that?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And Microsoft's expansive ecosystem</p> <p>17 allows you access to over one billion people.</p> <p>18 Do you see where it says that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Do you happen to know that a</p> <p>21 billion people is a seventh of the population</p> <p>22 on earth?</p> <p>23 A. Yes, I do.</p> <p>24 MS. COLE: That's beyond the scope.</p> <p>25 Q. Now, do you have any reason to</p>	<p style="text-align: right;">Page 296</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 And so when Microsoft and Xandr are</p> <p>3 talking to the buyers about buying across</p> <p>4 channels and formats, what they're talking</p> <p>5 about is, at least, CTV, gaming, shopper</p> <p>6 marketing, native and display, right?</p> <p>7 MR. VERNON: Objection,</p> <p>8 mischaracterizes native, display --</p> <p>9 Q. It that what it says?</p> <p>10 A. It says advertisers were able to</p> <p>11 reach across different audiences and</p> <p>12 different formats.</p> <p>13 Q. Right. And it's telling buyers,</p> <p>14 advertisers that they can reach people</p> <p>15 through CTV, gaming, shopper marketing and</p> <p>16 native all as a result of Microsoft and</p> <p>17 Xandr, right?</p> <p>18 A. That is correct.</p> <p>19 Q. Okay. All right.</p> <p>20 MS. DUNN: Okay. I would like to</p> <p>21 show you, if we can hand the witnesses</p> <p>22 tabs 26, 27 and 28.</p> <p>23 MS. SPEVACK: It will be</p> <p>24 Exhibit 20.</p> <p>25 (MSFT Exhibit 20, Natively produced</p>
<p style="text-align: right;">Page 295</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 doubt that this is true?</p> <p>3 A. I do not.</p> <p>4 Q. Now, it then says, "Here's a closer</p> <p>5 look at the inventory available." And it</p> <p>6 mentions Microsoft search network,</p> <p>7 Microsoft's owned and operated sites that we</p> <p>8 went through, Microsoft Audience Network,</p> <p>9 which includes MSN, Outlook and Edge and it</p> <p>10 mentions PromoteIQ which is the retail outfit</p> <p>11 that we talked about. Do you see that?</p> <p>12 A. Yes, I do.</p> <p>13 Q. And Microsoft also wants buyers to</p> <p>14 know that Xandr is one of the largest global</p> <p>15 programmatic marketplaces. Do you see that?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Now if you look at slide 5 in the</p> <p>18 buyers talk track. It says, "We're excited</p> <p>19 to be working as part of Microsoft to create</p> <p>20 new valuable opportunities for advertisers.</p> <p>21 With Microsoft, we're gaining significant</p> <p>22 momentum across CTV, gaming shopper marketing</p> <p>23 and native - further strengthening Xandr and</p> <p>24 Invest DSP as your strategic partner to buy</p> <p>25 across channels and format."</p>	<p style="text-align: right;">Page 297</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 document, PowerPoint presentation</p> <p>3 entitled, "Welcome to Microsoft</p> <p>4 Advertising," Bates Nos.</p> <p>5 MSFT-LIT0000002147, marked for</p> <p>6 identification, this date.)</p> <p>7 MS. SPEVACK: 21.</p> <p>8 (MSFT Exhibit 21, Document, Bates</p> <p>9 Nos. MSFT-LIT0000033249 through</p> <p>10 MSFT-LIT0000033254, marked for</p> <p>11 identification, this date.)</p> <p>12 Q. I'm just going to ask you if</p> <p>13 they're documents prepared in the ordinary</p> <p>14 course of business. And I'm not going to ask</p> <p>15 you any questions about them.</p> <p>16 MS. SPEVACK: And 22.</p> <p>17 (MSFT Exhibit 22, Natively produced</p> <p>18 document, PowerPoint presentation</p> <p>19 entitled, "Xandr Ad Server/Supplement,"</p> <p>20 Bates No. MSFT-LIT0000028835, pages 1</p> <p>21 through 16, marked for identification,</p> <p>22 this date.)</p> <p>23 (Discussion off the record.)</p> <p>24 Q. So those three documents that I</p> <p>25 just handed to you --</p>

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<p style="text-align: right;">Page 318</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 evolves, multiple players started picking</p> <p>3 compared to the display advertising.</p> <p>4 Q. Okay.</p> <p>5 MR. VERNON: Could we go off the</p> <p>6 record. Just give me two minutes. I</p> <p>7 just want to make sure I asked all the</p> <p>8 questions.</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 6:19 p.m. and we're off the record.</p> <p>11 (A brief recess was taken.)</p> <p>12 THE VIDEOGRAPHER: The time is</p> <p>13 6:21 p.m. and we're back on the record.</p> <p>14 Q. Do you have that document in front</p> <p>15 of you that we were just looking at?</p> <p>16 A. Yes, I do.</p> <p>17 Q. And the one that refers to the</p> <p>18 "marketplace lock-in in Display." Do you see</p> <p>19 that?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Earlier counsel asked you some</p> <p>22 questions about meetings between the DOJ and</p> <p>23 Microsoft with Xandr. Do you remember that?</p> <p>24 A. Yes, I do.</p> <p>25 Q. Did Microsoft or Xandr create this</p>	<p style="text-align: right;">Page 320</p> <p>1</p> <p>2 STATE OF _____)</p> <p>3) :ss</p> <p>4 COUNTY OF _____)</p> <p>5</p> <p>6</p> <p>7 I, BENNEASER JOHN, the witness</p> <p>8 herein, having read the foregoing</p> <p>9 testimony of the pages of this</p> <p>10 deposition, do hereby certify it to be a</p> <p>11 true and correct transcript, subject to</p> <p>12 the corrections, if any, shown on the</p> <p>13 attached page.</p> <p>14</p> <p>15 _____</p> <p>16 BENNEASER JOHN</p> <p>17</p> <p>18 Sworn and subscribed to before</p> <p>19 me, this _____ day of</p> <p>20 _____, 2023.</p> <p>21 _____</p> <p>22 Notary Public</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 319</p> <p>1 JOHN - HIGHLY CONFIDENTIAL</p> <p>2 document that talks about marketplace lock-in</p> <p>3 for display for purposes of showing it to the</p> <p>4 DOJ?</p> <p>5 A. Absolutely not.</p> <p>6 MR. VERNON: Okay. With that, and</p> <p>7 unless counsel for Google has further</p> <p>8 questions, I'm done with my questions,</p> <p>9 and I thank you and the court reporter</p> <p>10 and the videographer and to everyone for</p> <p>11 taking the time to sit here on a Friday.</p> <p>12 THE WITNESS: Thank you, all.</p> <p>13 MS. DUNN: Thank you very much. We</p> <p>14 appreciate you very, very much.</p> <p>15 THE VIDEOGRAPHER: We're going off</p> <p>16 the record at 6:22 p.m., and this</p> <p>17 concludes today's testimony given by Ben</p> <p>18 John. The total number of media units</p> <p>19 was five, and they will be retained by</p> <p>20 Veritext.</p> <p>21 (Time noted: 6:22 p.m.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 321</p> <p>1</p> <p>2 C E R T I F I C A T E</p> <p>3 STATE OF NEW YORK)</p> <p>4 : ss.</p> <p>5 COUNTY OF NEW YORK)</p> <p>6 I, Jennifer Ocampo-Guzman, a</p> <p>7 Certified Realtime Shorthand Reporter and</p> <p>8 Notary Public within and for the State of New</p> <p>9 York, do hereby certify:</p> <p>10 That BENNEASER JOHN, the witness</p> <p>11 whose deposition is hereinbefore set forth,</p> <p>12 was duly sworn, and that such deposition is</p> <p>13 a true record of the testimony given by the</p> <p>14 witness.</p> <p>15 I further certify that I am not</p> <p>16 related to any of the parties to this action</p> <p>17 by blood or marriage, and that I am in no</p> <p>18 way interested in the outcome of this</p> <p>19 matter.</p> <p>20 IN WITNESS WHEREOF, I have</p> <p>21 hereunto set my hand this 12th day of</p> <p>22 September 2023.</p> <p>23</p> <p>24 <i>J. Ocampo-Guzman</i></p> <p>25 JENNIFER UCAMPO-GUZMAN, CRR, CLR</p>